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File Code: 1570

Objection No.: 14-05-00-0035-O219

Date: October 3, 2014

Mr. Bruce Whitcher  
CA Off Road Vehicle Assoc. & CCMA  
1670 Pin Oak Lane  
Templeton, CA 93465

**CERTIFIED – RETURN**  
**RECEIPT REQUESTED**

Dear Mr. Whitcher:

The Legal Notice of the objection period for the Los Padres National Forest plan amendment Final Supplemental Environmental Impact Statement (FSEIS) was published on January 17, 2014. On March 17, 2014, I received your objection on the proposed amendment on behalf of California Off Road Vehicle Association and Central Coast Motorcycle Association. You were eligible to file an objection and your objection letter was filed during the objection-filing period.

This letter is my written response to your objections. As required by 36 CFR 219.56(g), “The Reviewing Officer must issue a written response to objector(s) concerning their objection(s) within 90 days following the end of the objection-filing period. However, the Reviewing Officer has the discretion to extend the time when he or she determines that additional time is necessary to provide adequate response to objections or to participate in resolution discussions with the objector(s).” Pursuant to 36 CFR 219.56(g) I chose to extend the response time by 60 days to accommodate objection resolution meetings with the objectors and interested persons and to provide adequate time to consider the concerns presented at the resolution meeting. In addition, due to the recent West Napa Earthquake resulting in the Regional Office being closed for five business days, all response times have been extended by an additional five business days.

### **Plan Amendment Summary**

Land Management Plans (LMPs or forest plans) are required by the National Forest Management Act (NFMA) of 1976. They are an integrated document that describes the goals, objectives, and management direction for each component of the National Forest System. The four southern California national forests adopted revised Land Management Plans in April 2006.

The decision to adopt the forest plans was challenged in federal court by two parties in separate cases: one filed by the State of California (*California Resources Agency, et al vs. United States Department of Agriculture*), and the second by several environmental organizations (*Center for Biological Diversity, et al vs. United States Department of Agriculture*). The cases were consolidated, and on September 29, 2009, District Court Judge Marilyn Hall Patel entered judgment, granting in part and denying in part the parties’ motions for summary judgment. The



Court held that the Forest Service's Final Environmental Impact Statement (FEIS) for the revised forest plans violated the National Environmental Policy Act (NEPA) and the NFMA. On December 15, 2010, the parties finalized a settlement agreement determining the forms of relief. The settlement requires, in part, that:

The Forest Service will prepare a Supplemental Environmental Impact Statement ("SEIS") that re-examines forest plan management direction with regard to Inventoried Roadless Areas ("IRAs") within the Angeles, Cleveland, Los Padres and San Bernardino National Forest (collectively, "four forests") and analyzes alternative monitoring protocols. The SEIS will include a description of the Forest Service's efforts to coordinate with the State Plaintiffs regarding the State's policies for management of roadless areas. At the request of the Environmental Plaintiffs and the People of the State of California, the Forest Service will consider, at a minimum, the areas listed in Attachment A, or portions thereof, for potential rezoning to the Recommended Wilderness ("RW") or Back Country Non-Motorized ("BCNM") land use zones and the SEIS will include as a component of the proposed action, a proposal to rezone these areas, or portions thereof, to the RW or BCNM land use zones. Additional alternatives will also be considered as part of the NEPA process. The Forest Service will use best efforts to complete the SEIS and issue a Record of Decision within twenty-four months of the effective date of the Settlement Agreement.

The FSEIS for the southern California national forests' LMP amendment was prepared in response to the settlement agreement requirements. The proposed amendments to the 2006 LMPs are limited in scope and designed to address only the terms of the settlement agreement.

The Responsible Official selected the land use zone amendment described in Alternative 2a, and the monitoring strategy amendment described in Alternative B. Alternative 2a is a modification of the preferred alternative published in the Draft SEIS, and both Alternatives 2a and Alternative B are described in more detail in Chapter 2 of the Final SEIS. Alternative 2a will amend the Los Padres National Forest (LPNF) LMP to change the zoning for approximately 293,000 acres across 16 Inventoried Roadless Areas (IRAs) from their existing land use zones (primarily Back Country (BC) and Back Country Motorized Use Restricted (BCMUR)) to Back Country Non-Motorized (BCNM). There would be no change to the 5,300 acres currently zoned as Recommended Wilderness (RW). Alternative B amends the existing monitoring protocols by updating the monitoring questions and revising the process used to select projects for monitoring.

Changing the land use zones to BCNM under Alternative 2a will also change the Recreation Opportunity Spectrum (ROS) and Scenic Integrity Objectives (SIO). As described in Chapter 4 of the FSEIS, in Tables 89 and 96, the ROS will change to Semi-Primitive Non-Motorized, and the SIO will change to High for areas zoned as BCNM.

This plan level decision does not authorize any specific project activities such as vegetation management or road decommissioning, does not amend any permits or contracts or authorize any activity allowed by permit or contract, and does not modify any prohibitions, known as "Forest

Orders” issued under 36 CFR § 261 Subpart B. The decision is also consistent with the requirements of 36 CFR § 294 Subpart B, Protection of Inventoried Roadless Areas, also referred to as the Roadless Area Conservation Rule (RACR).

### **Objection Summary**

In their objections, objectors asked to change the amendment in the following ways:

- 1) Reconsider the California Chaparral Institute’s recommendation to develop a baseline for the remaining old-growth stands of chaparral that includes historical analysis (California Chaparral Institute (CCI)).
- 2) Revise the FSEIS to incorporate the information outlined in comment letters from the objector and USFWS regarding California condors (Los Padres Forest Watch (LPFW), Center for Biological Diversity, The Wilderness Society, Western Watersheds Project, California Native Plant Society, California Chaparral Institute, California Wilderness Coalition, Keep Sespe Wild, et. al., Jeff Kuyper and Ileene Anderson).
- 3) Adopt a Recommended Wilderness designation for certain IRAs in the final ROD to ensure the fullest protections for California condors and all special-status species, with particular emphasis on those IRAs identified by the NOAA Fisheries for protection of steelhead critical habitat (LPFW et al.).
- 4) Revise the FSEIS to incorporate information and data on special-status species that may occur in IRAs based on surveys and/or the presence of suitable habitat (LPFW et al.).
- 5) Revise the FSEIS to evaluate all direct and indirect impacts to critical habitat, both inside and adjacent to IRAs (LPFW et al.).
- 6) Consider revising the proposed decision to include more frequent monitoring and to adopt additional science-based monitoring protocols that will provide adequate information to managers regarding key resources in order to ensure resources are protected and adaptive management is utilized where needed (LPFW et al.).
- 7) Use best available science, including the work of Dr. Jack Cohen, to design fuels treatments near communities, in order to promote health of the chaparral community and provide cost-effective structure protection (CCI).
- 8) Analyze an alternative that includes in the range of 75% or approximately 150,000 acres of BCNM for the Los Padres. Retain BC zoning in locations for key connecting routes to provide continuity of the transportation system or opportunities for rerouting problem sections of road and trail (CCMA & CORVA).
- 9) Establish a minimum 300 ft. buffer for all system roads and trails to allow for trail reroutes and/or trail relocation in the future should this become necessary to maintain the routes of travel (CCMA & CORVA).
- 10) Revise the IRA Analysis for the Antimony IRA (and six other IRAs: Cuyama, Diablo, Fox Mountain, Juncal, Sawmill-Badlands and White Ledge). In the alternative, the USFS may wish to place a Recommended Wilderness land use zoning classification across much of this area, with certain minor adjustments as necessary (LPFW et al.).
- 11) Recommend that the IRA Analysis contain a scoring system so that the public can gain a better understanding of how the wilderness capability, suitability, and need criteria are weighed to guide the agency’s decision on whether to recommend an area for wilderness protection (LPFW et al.).

## Resolution Meeting

On July 2, 2014, I sent you an email and a letter in an effort to convene a meeting to discuss your concerns about the LPNF plan amendment. A resolution meeting was held on July 17, 2014. At the meeting we discussed concerns including those regarding: the suggested designation of the Antimony IRA as RW; concerns regarding cumulative effect of the RW designation or lack of RW designation on wildlife species; and larger forest management scale effects on wildlife. I appreciate the participation of the objectors and interested persons in the objection process in general, and in particular those that participated in the objection resolution meeting. I found our discussion to be helpful to understanding your concerns.

## Objection Responses

### Biological Resources

#### Objection Issue Summary:

The objector asserts that the Forest Service failed to adequately evaluate impacts to critical habitat and to various species including California condor (LPFW et al.).

#### Summary of Record Review Findings:

Review of the project record indicates that the analysis supporting the FSEIS and Biological Assessments (BA) was adequate to evaluate the impacts to special-status species (including the California condor) and critical habitat, and that these species would experience beneficial impacts from shifting of Land Use Zones (LUZs) to more restrictive types of uses (BCMUR to BCNM). Species that were not the focus of the evaluation (because they were not known to occur in the IRAs) would also be subject to these beneficial impacts and would be evaluated in detail at the project level.

The FSEIS clearly articulates that LMPs, including the Amendment, are programmatic documents that do not authorize ground disturbing activities. Therefore, the decisions do not have an immediate direct effect on wildlife or plants; direct effects are not realized until LMPs are implemented through project actions. Furthermore, all project-specific activities must adhere to the LMP standards that protect threatened, endangered, candidate, proposed and sensitive (TECPS) species and habitat.

With reference to the specific assertion by the objector that the Forest Service failed to evaluate impacts of the potential activities or uses on the California condor, the FSEIS and BA discuss the potential types of effects that may occur under the alternatives and analyze how the proposed change in LUZs may influence future trends in activities. The Draft ROD clearly states that the combination of RACR and LMP zoning, in addition to project-level NEPA and endangered Species Act (ESA) compliance would restrict future development (especially from projects considered permissible “by exception” in IRAs) which should result in a benefit to condors.

An objector asserts that the Forest Service failed to evaluate potential impacts to federally designated critical habitat outside of the IRAs that would be subject to LUZ changes. The Plan Amendment does not change land use zoning for federally designated critical habitat outside of

the evaluated IRAs. Furthermore, under Alternative 2a, all designated critical habitat on the LPNF that overlaps the evaluated IRAs would change to land use zones that are more restrictive than current designations (FSEIS, pp. 154-155). Therefore, effects are expected to be largely beneficial.

This potential for a beneficial effect for federally designated critical habitat is also true for special-status species, including the California condor. Under Alternative 2a, all affected acres in the IRAs on the LPNF (not just acres of critical habitat) would change to LUZs that are more restrictive than those under current conditions. Therefore, effects are expected to be largely beneficial and if additional species were to occur in the IRAs that weren't formally evaluated in the FSEIS, the Forest Service states that these species would also be "subject to the same beneficial effects."

Finally, it is important to note that the U. S. Fish and Wildlife Service (USFWS) and the National Marine Fisheries Service (NMFS) issued Biological Opinions (BOs) and Incidental Take Statements for the revised LMPs on September 30, 2013 and August 2, 2013, respectively. Both BOs concluded that the proposed action is not likely to jeopardize the continued existence of a federally protected species or result in destruction or adverse modification to designated critical habitat for any species. The USFWS and NMFS issued concurrence letters for the plan amendment and concurred with the Forest Service that the proposed new land use zoning is not likely to adversely affect federally protected species (including the California condor) or federally designated critical habitats (USFWS November 14, 2013; NMFS December 2, 2013).

#### Final Instructions to Responsible Official:

Clarify in the ROD that the evaluation of potential impacts focused on species with known occurrences in the IRAs because of the programmatic nature of the amendment, and that the plan amendment does not authorize ground disturbing (project) activities and an evaluation of the impacts to all potential habitat and species would be conducted during project development based on current data for species occurrences and protection status.

#### Monitoring

##### Objection Issue Summary:

In general, the objector sees the monitoring alternative chosen in the LPNF's decision as inadequate (CCI). The objector also states "the USFS's rejection of our suggestion to develop a baseline for the remaining old-growth stands of chaparral because it involved changing goals ... is not particularly compelling."

Another objector questions the reporting interval of the monitoring. The objector also states that the recommended monitoring changes were not incorporated into alternatives, and particularly in Alternative B, results in monitoring not based on "science-based recommendations" (LPFW et al.).

##### Summary of Record Review Findings:

The LPNF appropriately applied the 1982 Planning rule requirements to "obtain and keep current inventory data appropriate for planning and managing the resources." Baseline/inventory

chaparral data exists for the LPNF and it can be found in the 2006 SoCal LMP analysis. The LPNF has a clear, well-articulated strategy for the development of monitoring questions related to chaparral based on National Strategic Plan desired conditions and goals and objectives that will serve to inform an adaptive management process related to forest planning. No planning requirement exists for the development of a chaparral historical analysis.

LPNF also appropriately applied the 1982 Planning Rule monitoring and evaluation requirements for “periodic determination and evaluation of the effects of management practices...” (36 CFR 219.11 (d)); a quantitative estimate of performance ....; (36 CFR 219.12 (k)(1)); “documentation of the measured prescriptions and effects...” (36 CFR 219.12 (k)(2)); and “a description of ...the actions, effects, or resources to be measured, and the frequency of measurements” (36 CFR 219.12 (k)(4)(i)). Tables in Appendix 3 clearly display this required information. No particular periodicity of evaluation is required and the Forest used their discretion to determine that five years was an appropriate and cost effective reporting interval for trend analysis, supported by annual accomplishment and project level monitoring. This interval is the same interval as exists in the current LMP. In the FSEIS, the LPNF considered three monitoring alternatives including Alternative C which provides for more intensive inventories and surveys than the current monitoring plan or Alternative B. The LPNF considered a full range of alternatives; including additional monitoring into Alternative B would create a less distinct range of alternatives.

#### Final Instructions:

Clarify in the ROD that the Los Padres collects monitoring data every year, but that five year intervals are used to evaluate trends.

#### NEPA

#### Objection Issue Summary:

Objectors are concerned about the use of best available science for fuels projects (CCI) and the adequacy of the range of alternatives (CORVA & CCMA).

#### Summary of Record Review Findings:

**Best Available Science:** As stated in the Response to Comments, the issue related to use of best available science in project design is beyond the purpose of this amendment, which is to amend LMP land use zone allocations for select IRAs and to amend LMP monitoring and evaluation protocols in response to the terms of the Settlement Agreement.

The Forest Service has not rejected the objector’s suggestion to use best available science, but rather has stated that the science suggested by the objector is more appropriately applied at the project level than at the Land Management Plan level. It is important to consider recent and emerging science on chaparral ecology and structure protection when choosing the best management strategies for these plant communities and the adjacent urban areas.

**Range of Alternatives:** Based on the requirements in the Settlement Agreement, the Forest Service developed one alternative that emphasized rezoning to BCNM (Alternative 2) and one alternative that emphasized rezoning to RW (Alternative 3). A third alternative was developed

in response to comments (Alternative 2a). The current zoning constituted the No Action alternative (Alternative 1). The range of alternatives includes all possibilities inherent in the No Action Alternative (Alternative 1) and the other alternatives considered in detail. Since all the zoning in the No Action Alternative was analyzed, the analysis in the FSEIS includes the option requested by the Objector, even though that option was not specifically analyzed separately.

The draft decision would retain the current Developed Area Interface (DAI) zones and maintains current zoning for roads and motorized trails through designation of a 200 foot buffer on either side of these routes (LPNF Draft ROD, pg. 3). Thus, current motorized recreation opportunities would be maintained by the draft decision.

The Draft ROD specifically considers motorized trails. Adjustments to the alternatives were made after scoping and in response to comments on the Draft SEIS to maintain motorized trail opportunities, including retention of current zoning adjacent to the Gold Hill road and the Quail Trail areas. In addition, a forest specific standard (LPNF S2) would allow motorized use of trails in BCNM if the trail construction is conditioned on permanent closure of the Toad Springs Trail.

#### Final Instructions:

There are no instructions in response to these issues.

#### Trails/Recreation

#### Objection Issue Summary:

The objector disagrees with designating BCNM with BC corridors in the Sespe-Frazier IRA to allow for the existing motorized route system (CORVA & CCMA).

#### Summary of Record Review Findings:

Alternatives 2, 2a, and 3 include corridors that vary in width in areas with known problems. Increasing the corridor width for all roads for the purpose of a possible reroute in the future would unnecessarily decrease the acreage of BCNM and RW land allocations (FSEIS, pg. 22). The 200' corridor was selected to allow for flexibility of road management and maintenance and in some areas wider corridors were retained to address route problems.

Roads shown on the Motor Vehicle Use Map (MVUM) were retained with 200' corridors (LPNF Draft ROD, pg. 3). The roads and trails that are shown in Appendix 1G of the FSEIS are currently part of the National Forest Transportation System and buffers are established along the existing managed route system. While reroutes may be needed, it is not prudent to assume that a reroute would occur or the location of the reroute until NEPA analysis has been completed and a decision made. Project specific analysis would include any required plan amendments to adjust zone boundaries, MVUM updates, Travel Analysis, and resource analysis as required by NEPA. "The best approach in our view is to work through any site specific issues, relocation proposals, or other new opportunities through the normal project level planning and analysis process. Any project would need to be consistent with the Roadless Area Conservation Rule (RACR), which does allow relocation of roads for resource protection under conditions outlined in the RACR (see 36 CFR 294.12)" (FSEIS, Appendix 4, comment #77, pg. 84-88).

Final Instructions to Responsible Official:

There are no instructions in response to these issues.

## Wilderness

Objection Issue Summary:

One Objector objects to several IRAs not being recommended as wilderness and states that “The FEIS erroneously relies on external ‘sights and sounds’ and other ineligible criteria to eliminate areas from wilderness consideration”. The Objector also states “The FEIS unreasonably rejects a recommended wilderness designation for portions of...” seven IRAs within the forest, including Antimony, Cuyama, Diablo, Fox Mountain, Juncal, Sawmill-Badlands and White Ledge. (LPFW et al.).

Summary of Record Review Findings:

LPNF appropriately applied FSH 1909.12, Chapter 70, Wilderness Evaluation, evaluating areas for potential recommendation as wilderness by completing assessments of wilderness “capability”, “availability” and “need” for each roadless area. The evaluation in the FSEIS Appendix 2 adequately describes the capability, availability and need for the various IRAs as RW. Recommending wilderness is a process of weighing numerous characteristics against each other. One resource or need does not automatically outweigh another resource or need. An Objector states that LPNF used ineligible criteria, but the criteria used are identified in the FSH 1909.12, Chapter 70 and displayed in Appendix 2 of the FSEIS.

An objection was raised specific to the Antimony IRA. There appears to be some inconsistencies needing clarification in the Draft ROD. Specifically, the evaluation in Appendix 2 seems to point out some moderate to high wilderness values, but the decision rationale in the Draft ROD does not thoroughly explain why, despite these moderate to high valued wilderness characteristics, the area was not recommended as wilderness. A clearer connection between the evaluation in Appendix 2 of the FSEIS and the rationale in the Draft ROD should be made, including any limiting factors that would preclude the various IRAs from being recommended as wilderness.

Final Instructions to Responsible Official:

Review the rationale in the ROD for designating or not designating IRAs as RW and provide clarification where needed that supports and clearly connects to the information provided in the IRA evaluation in Appendix 2 of the FEIS, including if and how any higher value factors may have influenced the draft decision.

**Instructions to Responsible Official**

- 1) Review the rationale in the ROD for designating or not designating IRAs as RW, particularly the Antimony and [six others] IRAs and provide clarification where needed that supports and clearly connects to the information provided in the IRA evaluation in Appendix 2 of the FSEIS, including how those factors influenced the final decision.



- 2) Correct the date for the Condor Recovery Plan to “1996” most recent year the recovery plan was published. (On page 6, paragraph 1 of the Draft ROD, replace “1974” with “1996”.)
- 3) Add a clarification to the ROD to clearly explain that Clarify in the ROD that the evaluation of potential impacts focused on species with known occurrences in the IRAs because of the programmatic nature of the amendment, and that the plan amendment does not authorize ground disturbing (project) activities and an evaluation of the impacts to all potential habitat and species would be conducted during project development based on current data for species occurrences and protection status.
- 4) Clarify in the ROD that the LPNF collects monitoring data every year, but that five year intervals are used to evaluate trends.

### **Conclusion**

As described above, I made a reasonable and appropriate effort to resolve the concerns that were brought forward while maintaining a balanced approach to managing the lands and meeting the purpose of the amendment process.

By copy of this letter, I am instructing Forest Supervisor Robert Baird to proceed with issuance of a Record of Decision for this plan amendment once all instructions identified in this objection response have been addressed. There will be no further review of this response by any other Forest Service or U.S. Department of Agriculture official as per 36 CFR 219.57 (b)(3).

Sincerely,

*/s/ Ronald G. Ketter*

RONALD G. KETTER

Deputy Regional Forester

Reviewing Officer

cc: Richard Halsey, CA Chaparral Institute, Interested Person  
Jeff Kuyper, Los Padres Forest Watch, Interested Person  
Ileene Anderson, Los Padres Forest Watch, Interested Person  
Dan Smuts, Los Padres Forest Watch, Interested Person  
Robert Baird, Forest Supervisor, Los Padres NF